

AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1551

Introduced by Senator Vargas

February 24, 2012

An act to ~~amend Section 11165.7 of~~ *add Article 2.3 (commencing with Section 11163.7) to Chapter 2 of Title 1 of Part 4 of the Penal Code, relating to child sexual abuse and neglect.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1551, as amended, Vargas. Child *sexual abuse and neglect*: mandated reporting.

Existing law, the Child Abuse Neglect and Reporting Act, makes certain persons mandated reporters. Under existing law, mandated reporters are required to report whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Failure of a mandated reporter to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor.

This bill would require any competent adult, as defined, to report a reasonable suspicion of child sexual abuse and would make failure to report punishable by a range of fines and imprisonment based on the level of the failure. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would make technical, nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Article 2.3 (commencing with Section 11163.7)*
2 *is added to Chapter 2 of Title 1 of Part 4 of the Penal Code, to*
3 *read:*

4
5 *Article 2.3. Child Sexual Abuse Reporting*
6

7 *11163.7. A competent adult who becomes aware of information*
8 *or evidence that would cause a reasonable suspicion of child sexual*
9 *abuse is required to report that information to state or local law*
10 *enforcement or to county child protective services within 72 hours.*

11 *11163.75. For purposes of this article, the following definitions*
12 *shall apply:*

13 (i) *“Competent adult” means a person who is 18 years of age*
14 *or older and who has no mental or developmental disabilities that*
15 *would impair his or her ability to make a reasoned judgment as*
16 *to whether a child may have been subjected to sexual abuse.*

17 (ii) *“Reasonable suspicion” shall have the same meaning as in*
18 *Section 11166.*

19 (iii) *“Sexual abuse” shall have the same meaning as in Section*
20 *11165.1.*

21 *11163.8. A competent adult who fails to report child sexual*
22 *abuse as required by Section 11163.7 shall be subject to the*
23 *following penalties:*

24 (i) *A person who fails to report when the unreported information*
25 *or evidence would cause a reasonable suspicion of child sexual*
26 *abuse, for instance receipt of multiple sources of third-hand*
27 *information, is guilty of negligent failure to report, a misdemeanor*
28 *punishable by up to six months in county jail, a fine of one thousand*
29 *dollars (\$1,000), or by both that fine and imprisonment.*

30 (ii) *A person who fails to report when the unreported information*
31 *or evidence would cause a strong reasonable suspicion of child*

1 sexual abuse, for instance receipt of multiple sources of
2 secondhand information, is guilty of failure to report, a
3 misdemeanor punishable by up to one year in county jail, a fine
4 of two thousand five hundred dollars (\$2,500), or by both that fine
5 and imprisonment.

6 (c) A person who fails to report when the unreported information
7 or evidence would cause a reinforced reasonable suspicion of
8 child sexual abuse, for instance receipt of multiple sources of
9 firsthand information, is guilty of gross failure to report, a felony
10 punishable by three years confinement in county jail pursuant to
11 subdivision (h) of Section 1170, a fine of five thousand dollars
12 (\$5,000), or by both that fine and imprisonment.

13 (d) A person who engages in intentional conduct, who acts to
14 hinder the discovery of information or evidence, who conceals,
15 alters, or destroys information or evidence, or who tampers with,
16 coerces, influences, or intimidates a witness, relating to child
17 sexual abuse is guilty of aggravated failure to report, a felony
18 punishable by 10 years in state prison, a fine of ten thousand
19 dollars (\$10,000), or by both that fine and imprisonment.

20 11163.85. Notwithstanding any other law, a complaint may be
21 filed for violation of any crime listed in Section 11163.8 within
22 five years of the occurrence.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

32 ~~SECTION 1. Section 11165.7 of the Penal Code is amended~~
33 ~~to read:~~

34 ~~11165.7. (a) As used in this article, “mandated reporter” is~~
35 ~~defined as any of the following:~~

- 36 ~~(1) A teacher.~~
- 37 ~~(2) An instructional aide.~~
- 38 ~~(3) A teacher’s aide or teacher’s assistant employed by any~~
39 ~~public or private school.~~
- 40 ~~(4) A classified employee of a public school.~~

- 1 ~~(5) An administrative officer or supervisor of child welfare and~~
2 ~~attendance, or a certificated pupil personnel employee of a public~~
3 ~~or private school.~~
- 4 ~~(6) An administrator of a public or private day camp.~~
- 5 ~~(7) An administrator or employee of a public or private youth~~
6 ~~center, youth recreation program, or youth organization.~~
- 7 ~~(8) An administrator or employee of a public or private~~
8 ~~organization whose duties require direct contact and supervision~~
9 ~~of children.~~
- 10 ~~(9) An employee of a county office of education or the State~~
11 ~~Department of Education, whose duties bring the employee into~~
12 ~~contact with children on a regular basis.~~
- 13 ~~(10) A licensee, administrator, or employee of a licensed~~
14 ~~community care or child day care facility.~~
- 15 ~~(11) A Head Start program teacher.~~
- 16 ~~(12) A licensing worker or licensing evaluator employed by a~~
17 ~~licensing agency as defined in Section 11165.11.~~
- 18 ~~(13) A public assistance worker.~~
- 19 ~~(14) An employee of a child care institution, including, but not~~
20 ~~limited to, foster parents, group home personnel, and personnel of~~
21 ~~residential care facilities.~~
- 22 ~~(15) A social worker, probation officer, or parole officer.~~
- 23 ~~(16) An employee of a school district police or security~~
24 ~~department.~~
- 25 ~~(17) A person who is an administrator or presenter of, or a~~
26 ~~counselor in, a child abuse prevention program in a public or~~
27 ~~private school.~~
- 28 ~~(18) A district attorney investigator, inspector, or local child~~
29 ~~support agency caseworker unless the investigator, inspector, or~~
30 ~~caseworker is working with an attorney appointed pursuant to~~
31 ~~Section 317 of the Welfare and Institutions Code to represent a~~
32 ~~minor.~~
- 33 ~~(19) A peace officer, as defined in Chapter 4.5 (commencing~~
34 ~~with Section 830) of Title 3 of Part 2, who is not otherwise~~
35 ~~described in this section.~~
- 36 ~~(20) A firefighter, except for volunteer firefighters.~~
- 37 ~~(21) A physician and surgeon, psychiatrist, psychologist, dentist,~~
38 ~~resident, intern, podiatrist, chiropractor, licensed nurse, dental~~
39 ~~hygienist, optometrist, marriage and family therapist, clinical social~~
40 ~~worker, professional clinical counselor, or other person who is~~

1 ~~currently licensed under Division 2 (commencing with Section~~
2 ~~500) of the Business and Professions Code.~~

3 ~~(22) An emergency medical technician I or II, paramedic, or~~
4 ~~other person certified pursuant to Division 2.5 (commencing with~~
5 ~~Section 1797) of the Health and Safety Code.~~

6 ~~(23) A psychological assistant registered pursuant to Section~~
7 ~~2913 of the Business and Professions Code.~~

8 ~~(24) A marriage and family therapist trainee, as defined in~~
9 ~~subdivision (c) of Section 4980.03 of the Business and Professions~~
10 ~~Code.~~

11 ~~(25) An unlicensed marriage and family therapist intern~~
12 ~~registered under Section 4980.44 of the Business and Professions~~
13 ~~Code.~~

14 ~~(26) A state or county public health employee who treats a minor~~
15 ~~for venereal disease or any other condition.~~

16 ~~(27) A coroner.~~

17 ~~(28) A medical examiner, or any other person who performs~~
18 ~~autopsies.~~

19 ~~(29) A commercial film and photographic print processor, as~~
20 ~~specified in subdivision (c) of Section 11166. As used in this~~
21 ~~article, “commercial film and photographic print processor” means~~
22 ~~a person who develops exposed photographic film into negatives,~~
23 ~~slides, or prints, or who makes prints from negatives or slides, for~~
24 ~~compensation. The term includes an employee of such a person;~~
25 ~~it does not include a person who develops film or makes prints for~~
26 ~~a public agency.~~

27 ~~(30) A child visitation monitor. As used in this article, “child~~
28 ~~visitation monitor” means a person who, for financial~~
29 ~~compensation, acts as monitor of a visit between a child and~~
30 ~~another person when the monitoring of that visit has been ordered~~
31 ~~by a court of law.~~

32 ~~(31) An animal control officer or humane society officer. For~~
33 ~~the purposes of this article, the following terms have the following~~
34 ~~meanings:~~

35 ~~(A) “Animal control officer” means a person employed by a~~
36 ~~city, county, or city and county for the purpose of enforcing animal~~
37 ~~control laws or regulations.~~

38 ~~(B) “Humane society officer” means a person appointed or~~
39 ~~employed by a public or private entity as a humane officer who is~~

1 qualified pursuant to Section 14502 or 14503 of the Corporations
2 Code.

3 ~~(32) A clergy member, as specified in subdivision (d) of Section~~
4 ~~11166. As used in this article, “clergy member” means a priest,~~
5 ~~minister, rabbi, religious practitioner, or similar functionary of a~~
6 ~~church, temple, or recognized denomination or organization.~~

7 ~~(33) A custodian of records of a clergy member, as specified in~~
8 ~~this section and subdivision (d) of Section 11166.~~

9 ~~(34) An employee of a police department, county sheriff’s~~
10 ~~department, county probation department, or county welfare~~
11 ~~department.~~

12 ~~(35) An employee or volunteer of a Court Appointed Special~~
13 ~~Advocate program, as defined in Rule 5.655 of the California Rules~~
14 ~~of Court.~~

15 ~~(36) A custodial officer as defined in Section 831.5.~~

16 ~~(37) A person providing services to a minor child under Section~~
17 ~~12300 or 12300.1 of the Welfare and Institutions Code.~~

18 ~~(38) An alcohol and drug counselor. As used in this article, an~~
19 ~~“alcohol and drug counselor” is a person providing counseling,~~
20 ~~therapy, or other clinical services for a state licensed or certified~~
21 ~~drug, alcohol, or drug and alcohol treatment program. However,~~
22 ~~alcohol or drug abuse, or both alcohol and drug abuse, is not, in~~
23 ~~and of itself, a sufficient basis for reporting child abuse or neglect.~~

24 ~~(39) A clinical counselor trainee, as defined in subdivision (g)~~
25 ~~of Section 4999.12 of the Business and Professions Code.~~

26 ~~(40) A clinical counselor intern registered under Section 4999.42~~
27 ~~of the Business and Professions Code.~~

28 ~~(b) Except as provided in paragraph (35) of subdivision (a),~~
29 ~~volunteers of public or private organizations whose duties require~~
30 ~~direct contact with and supervision of children are not mandated~~
31 ~~reporters but are encouraged to obtain training in the identification~~
32 ~~and reporting of child abuse and neglect and are further encouraged~~
33 ~~to report known or suspected instances of child abuse or neglect~~
34 ~~to an agency specified in Section 11165.9.~~

35 ~~(c) Employers are strongly encouraged to provide their~~
36 ~~employees who are mandated reporters with training in the duties~~
37 ~~imposed by this article. This training shall include training in child~~
38 ~~abuse and neglect identification and training in child abuse and~~
39 ~~neglect reporting. Whether or not employers provide their~~
40 ~~employees with training in child abuse and neglect identification~~

1 and reporting, the employers shall provide their employees who
2 are mandated reporters with the statement required pursuant to
3 subdivision (a) of Section 11166.5.

4 (d) School districts that do not train their employees specified
5 in subdivision (a) in the duties of mandated reporters under the
6 child abuse reporting laws shall report to the State Department of
7 Education the reasons why this training is not provided.

8 (e) Unless otherwise specifically provided, the absence of
9 training shall not excuse a mandated reporter from the duties
10 imposed by this article.

11 (f) Public and private organizations are encouraged to provide
12 their volunteers whose duties require direct contact with and
13 supervision of children with training in the identification and
14 reporting of child abuse and neglect.